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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,410	10/15/2003	Shunpei Yamazaki	0756-7211	7762

31780 7590 05/31/2005

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EXAMINER

KOSLOW, CAROL M

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/684,410

Applicant(s)

YAMAZAKI ET AL.

Examiner

C. Melissa Koslow

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 19-38 is/are pending in the application.
- 4a) Of the above claim(s) 20, 22, 26, 30, 34 and 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 19, 21, 23-25, 27-29, 31-33 and 35-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 1755

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 19 April 2005 has been entered.

Newly submitted claims 1-4, 20, 22-24, 26-28, 30-32, 34-36 and 38 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 1-4, 23, 24, 27, 28, 31, 32, 35 and 36 are directed to any type of camera comprising an EL display, such as video cameras or camera phones and claims 20, 22, 26, 30, 34 and 38 are directed to a video camera. Original claims 1-4 were directed to digital cameras only. Thus applicants have constructively elected by original presentation the invention to digital cameras.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 20, 22, 26, 30, 34 and 38 are withdrawn from consideration as being directed to a non-elected invention and claims 1-4, 23, 24, 27, 28, 31, 32, 35 and 36 are being limited to the digital camera species. See 37 CFR 1.142(b) and MPEP § 821.03.

As stated in the Advisory action, the art rejection is withdrawn since applicants have perfected their priority date with a certified translation. Therefore, this application has an effective filing date of 24 September 1999, which is before the filing date of U.S. patent 6,617,051.

Art Unit: 1755

Claims 1-4, 19, 21, 23-25 and 27-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 23-25 and 27-29 are substantial duplicates of claims 1-4, 19 and 21. Applicants state in column 1, line 63 through column 2, line 12 that when the EL layer comprises ionic impurities in the ranges of claims 1, 3, 23 and 27, the layer inherently has the volume resistivity of claims 23 and 27. Thus these claims all cover the same thing.

Applicant is advised that should claims 1-4, 19 and 21 be found allowable, claims 23-25 and 27-29 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. See MPEP § 706.03(k).

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4, 19, 21, 23-25, 27-29, 31-33 and 35-37 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 and 11-19 of U.S. Patent No. 6,641,933 in view of U.S. patents 6,300,612 and 6,661,454.

Art Unit: 1755

Claims 3, 6, 9, 13, 16 and 19 of Patent No. 6,641,933 teaches electronic apparatus that contain a EL display device, wherein the display device comprises pixels provided with a light-emitting element which comprises a thin film including a light-emitting organic compound and that an ionic impurity concentration of at most 0.1 ppm or at most 0.01 ppm and a volume resistivity of 3×10^{10} ohm*cm or larger or a volume resistivity in the range of 1×10^{11} to 1×10^{12} ohm*cm. Claims 2, 5, 8, 12, 15 and 18 define the ionic impurities as being sodium or potassium. The apparatus is not defined in the claims, but applicants define the apparatus in column 20, line 66 through column 21, line 65. This list includes digital camera. U.S. patents 6,300,612 and 6,661,454 also teach digital cameras conventionally contain a EL display device, wherein the display device comprises pixels provided with a light-emitting element which comprises a thin film including a light-emitting organic compound. Therefore it would have been obvious to select a digital camera as the apparatus discussed in the claims of Patent No. 6,641,933.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Koslow whose telephone number is (571) 272-1371. The examiner can normally be reached on Monday-Friday from 8:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at (571) 272-1233.


The fax number for all official communications is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Art Unit: 1755

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cmk
May 26, 2005


C. Melissa Koslow
Primary Examiner
Tech. Center 1700